

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
GREENSBORO DIVISION**

**IN RE:**

**FELIX MANTILLA DRYE AND  
DOROTHEA MCCLARY DRYE,**

**CHAPTER 13  
CASE NO. 18-11149**

**DEBTORS**

**OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN**

NOW COMES Americredit Financial Servies, Inc. dba GM Financial ("AFS/GMF"), by and through Counsel, pursuant to 11 U.S.C. § 506 and 1325, and objects to confirmation of Debtors' Notice of Chapter 13 Plan respect to motor vehicle collateral owned by Debtors and in support thereof shows to the Court the following:

1. Debtors filed the Chapter 13 bankruptcy petition initiating this case on October 22, 2018.
2. On June 22, 2015, Debtors purchased under the terms of a Retail Installment Sales Contract ("Retail Contract") a 2009 BMW 1 Series, Vehicle Identification Number WBAUC73569VK95529 ("Motor Vehicle"). Pursuant to the terms of the Retail Contract, AFS/GMF is the secured creditor as to the Motor Vehicle. Attached hereto as Exhibit "A" and incorporated by reference herein as if set forth in its entirety is a copy of the Retail Contract.
3. AFS/GMF is the first lienholder of the Motor Vehicle as indicated on the Certificate of Title. Attached hereto as Exhibit "B" and incorporated by reference herein as if set forth in its entirety is a copy of the Certificate of Title.
4. AFS/GMF filed Proof of Claim for a payoff of \$19,786.55 with a secured claim of \$10,150.00. The Proof of Claim as filed is incorporated by reference herein as if set forth in its entirety.

5. The proposed Chapter 13 Plan secures AFS/GMF for only \$8,527.50 based on 109,225 miles with monthly payments of \$170.00 and interest at the Trustee rate of 7.00% and preconfirmation adequate protection payments of \$85.28.

6. According to the December 20, 2018, N.A.D.A. Used Car Guide, the clean retail value for the Motor Vehicle with 109,225 miles should be \$10,150.00. Attached to this Motion as Exhibit "C" and incorporated by reference herein as if set forth in its entirety is a copy of the December 20, 2018, N.A.D.A. Official Used Car Guide.

7. Using the Middle District of North Carolina's 90% of N.A.D.A. value as its valuation method, AFS/GMF's secured claim should not be less than \$9,135.00 with preconfirmation adequate protection payments of not less than 1% (\$91.35 per month), interest at the Trustee rate of 7.00%, with the balance unsecured. Furthermore, Debtor purchased and financed a GAP contract for \$795.00. Should Debtor assume and not reject the extended service contract, Debtor must pay AFS/GMF the unearned balance remaining.

8. AFS/GMF objects to Debtors' Chapter 13 plan because it is not submitted in good faith as to AFS/GMF and fails to secure AFS/GMF as required under the bankruptcy code and valuation method of the Middle District of North Carolina. AFS/GMF moves the Court to deny confirmation and dismiss the case, unless AFS/GMF is secured in an amount not less than \$9,135.00 with preconfirmation adequate protection payments of not less than 1% (\$91.35 per month), interest at the Trustee rate of 7.00%, with the balance unsecured. Furthermore, Debtors must assume or reject the GAP Contract.

WHEREFORE, Americredit Financial Servies, Inc. dba GM Financial moves the Court to deny confirmation and dismiss Debtors' case, unless the Court can secure AFS/GMF in an amount not less than \$9,135.00 with preconfirmation adequate protection payments of not less

than 1% (\$91.35 per month), interest at the Trustee rate of 7.00%, with the balance unsecured.

Furthermore, Debtors must assume or reject the GAP Contract.

DATED: January 10, 2019

CHRISTOPHER LEWIS WHITE, P.A.

/s/Christopher Lewis White

Christopher Lewis White

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dba GM Financial

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury that on this date the foregoing Motion for Relief from Automatic Stay was served by U.S. Postal Service first class mail or electronically as follows:

Felix Mantilla Drye (FCM)  
Dorothea McClary Drye  
P.O. Box 2755  
Burlington, NC 27215

Anita Jo Kinlaw Troxler (ECF)  
Chapter 13 Trustee  
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Attorney for Debtors  
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Greensboro, NC 27408

DATED: January 10, 2019.

CHRISTOPHER LEWIS WHITE, P.A.

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